

The Examiner has identified inventions II and I as being related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP §806.05(c)).

If there is no evidence that combination AB<sub>sp</sub> is patentable without the details of B<sub>sp</sub>, restriction should not be required. Where the relationship between the claims is such that the separately claimed subcombination B<sub>sp</sub> constitutes the essential distinguishing feature of the combination AB<sub>sp</sub> as claimed, the inventions are not distinct and a requirement for restriction must not be made, even though the subcombination has separate utility. (MPEP §806.05(c) II).

In this case, the combination AB<sub>sp</sub>, is the kiln having a plurality of ports (A) and the improved apparatus for penetrating said deposits and cleaning said deposits from said interior walls is the subcombination (B<sub>sp</sub>). In as much as independent claim 15 is written in Jepson format, with the preamble recitation “In a kiln having a plurality of ports...,” it is the subcombination that must constitute the distinguishing feature of the combination AB<sub>sp</sub>. Accordingly, the inventions I and II identified by the Examiner are not distinct and the requirement for restriction must not be made. This is true regardless of whether the subcombination has separate utility.

For the foregoing reasons, applicant requests reconsideration and withdrawal of the restriction requirement and that the application be examined on all claims 1-22.

Applicant requests amendment of the attorney docket number from 12776/24 to  
043546.001.

Respectfully submitted,

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